

IN THE DISTRICT COURT  
FOR THE DISTRICT OF PENNSYLVANIA

JOSHUA WESTMORELAND PRO SE

$\frac{1}{2}$  PETITIONER

V.

UNITED STATES OF AMERICA

RESPONDENTS

CIVIL CASE NO. TRT-SCR  
2019-03796 PUSUANT TO  
TITLE 31 U.S.C. 3723  
TORT CLAIM TO DISTRICT  
COURT FOR GOOD/CAUSE

FILED  
SCRANTON

NOV 21 2019

PER Amo  
DEPUTY CLERK

MOTION

COMES NOW PRO SE PETITIONER JOSHUA WESTMORELAND and request that this court hold his pro se brief to a less stringent standard than one prepared and filed by a seasoned lawyer. See Thomas v. Eby, 481 U.S. 434, 440 (6th Cir. 2007); Haines v. Kerner, 404 U.S. 519-21 (1972). In support of petitioner's claims for relief, allegations at law he averts the following grounds for relief.

CASE HISTORY

PETITIONER FILED ALL, OF THE APPROPRIATE GRIEVANCE FORM AND EVIDENCE OF LOST PROPERTY, RECEIPTS, AND ALL THE NECESSARY MATERIALS. SEE ATTACHED RECEIPTS OF AND ALL PAST ACTIONS FILED WITH THE REGIONAL PERSONEL. THUS PETITIONER REQUEST THAT THIS HONORABLE COURT ADJUDICATE ALL OF HIS CLAIMS FOR RELIEF WITHIN THIS PRESENT MOTION AND GRANT THE REQUESTED RELIEF. SEE (ATTACHED EXHIBITS AT LAW)

RESPECTFULLY

Joshua Westmoreland

CERTIFICATE OF SERVICE

ON THIS DAY OF 11/19/2019 2019, I SENT A COPY OF THIS MOTION TO THE CLERK OF COURT.

ims Act

1. [PURPOSE AND SCOPE §543.30. Pursuant to the Federal Tort Claims Act, a claim for money damages for personal injury or death and/or damage to or loss of property must be filed against the United States by the injured party with the appropriate

Federal agency for administrative action. General provisions for processing administrative claims under the Federal Tort Claims

Act are contained in 28 CFR part 14. The provisions in this subpart describe the procedures to follow when filing an administrative tort claim with the Bureau of Prisons.]

Under the Federal Tort Claims Act (FTCA), the government may be liable for the negligent or wrongful acts or omissions of its employees while acting within the scope of their employment.

Inmate work-related claims are not compensable under the FTCA's provisions. Such claims should be processed under the Inmate Accident Compensation Act, 28 CFR 301.301 - 301.317.

Most federal employee work-related claims are also not paid under the FTCA's provisions. Work-related personal injury or death claims are processed under the Federal Employees' Compensation

Act (FECA), 5 U.S.C. §§ 8101 - 8193. Work-related personal property claims are processed under the Military and Civilian Employees Claims Act (CECA), 31 U.S.C. § 3721, or under the Bureau of Prisons Claims Act (BOPCA), 31 U.S.C. § 3722, unless the claim involves government negligence.

2. **SUMMARY OF CHANGES.** This Program Statement is revised to increase the settlement amounts for the Regional Counsels and the General Counsel.

**[Bracketed Bold]** - Rules

Regular Type - Implementing Information

3. **PROGRAM OBJECTIVE.** The expected result of this program is:

Appropriate compensation will be made under the Federal Tort Claims Act if individuals suffer proven monetary loss, personal injury, or wrongful death caused by an employee's negligent or

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wrongful act or omission, while the employee is acting within the scope of his or her employment.

4. **DIRECTIVES AFFECTED**

a. **Directive Rescinded**

PS 1320.05 Federal Tort Claims Act (6/28/00)

b. **Directives Referenced**

28 U.S.C. § 1346(b) United States as Defendant

28 U.S.C. §§ 2671-2680, Tort Claims Procedure

28 U.S.C. § 2401(b) Statutory Time Period

DOJ Order 2110.23C Filing and Settlement of Claims of Civilian Personnel for Damages to or Loss of Personal Property Incident to Service (12/13/91)

c. **Rules Referenced**

28 CFR 0.96 & 0.97, Delegation and Redelelegation of authority

28 CFR 0.172, Authority: Federal tort claims

28 CFR 14.1 through 14.11, Administrative Claims under FTCA

28 CFR 543.30 through 543.32, Claims under the FTCA

5. **STANDARDS REFERENCED**

a. American Correctional Association 3<sup>rd</sup> Edition Standards for Adult Correctional Institutions: 3-4041, 3-4190, and 3-4393

b. American Correctional Association 3<sup>rd</sup> Edition Standards for Adult Local Detention Facilities: 3-ALDF-1B-15, 3-ALDF-3A-24, and 3-ALDF-4G-07

6. **DELEGATION OF AUTHORITY.** The General Counsel and Regional Counsel are delegated authority (28 CFR 0.97) to consider, adjust, determine, compromise, settle, and pay federal tort claims if the amount of a proposed adjustment, compromise, settlement, or award does not exceed the amount specified in

28 CFR 0.172.

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7. [FILING A CLAIM \$543.31

a. Who may file a claim? You may file a claim if you are the injured person or the owner of the damaged or lost property. A person acting on your behalf as an agent, executor, administrator, parent, guardian, or other representative may file a claim for you if the person provides a written statement signed by you giving that person permission to act for you. A representative may also file a claim for wrongful death. If you hire a lawyer or authorize a representative to act on your behalf, the agency will correspond only with that representative, and will not continue to correspond with you.]

A claim may be filed by an inmate or a non-inmate (e.g., staff member, visitor, or private citizen). You must file a claim within two years after your claim accrues. Should a settlement offer be made, the voucher will contain both your name and the name of your representative, if applicable.

Regional Counsel staff will track all claims that are filed properly within their regions.

Claims will not

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United States Department of Justice  
Federal Bureau of Prisons  
Consolidated Legal Center  
7410 S MacArthur Blvd.  
Oklahoma City, OK 73169

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OK 730

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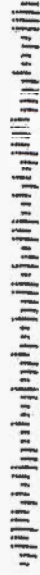
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Joshua Westmoreland  
Register No. 18889-075  
United States Penitentiary - Canaan  
P.O. Box 300  
Waymart, PA 18472

18472-080000





United States Department of Justice

Federal Bureau of Prisons

*South Central Regional Office*

OCT 11 2019

*U.S. Armed Forces Reserve Complex  
344 Marine Forces Drive  
Grand Prairie, Texas 75051*

Joshua Westmoreland  
Reg. No. 18889-075  
United States Penitentiary - Canaan  
P.O. Box 300  
Waymart, PA 18472

Re: Tort Claim No. TRT-SCR-2019-03796

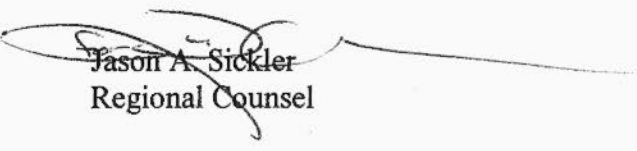
Dear Mr. Westmoreland:

This letter is the Federal Bureau of Prisons' (BOP) response to your request for reconsideration of the administrative claim you submitted pursuant to and adjudicated pursuant to 31 U.S.C. § 3723.

The BOP letter to you of May 29, 2019 stated in part, "You must submit your request for reconsideration in writing, to the above address with three months of the date of this letter." Your request for reconsideration must have been received no later than August 29, 2019. Your request was post-marked September 3, 2019, and was not received until September 16, 2019; therefore, it is untimely and is denied.

You should be aware that Title 31 U.S.C. § 3723 does not provide for judicial review of claim determinations made under that statutory provision.

Sincerely,

  
Jason A. Sickler  
Regional Counsel

JAS/elg

cc: D. Hendrix, Complex Warden  
FCC Forrest City

E. Bradley, Warden  
USP Canaan





United States Department of Justice

Federal Bureau of Prisons

Consolidated Legal Center

Federal Transfer Center  
7410 S. MacArthur Blvd.  
Oklahoma City, OK 73189

Date Mailed: SEP 18 2019

Joshua Westmoreland  
Register No. 18889-075  
United States Penitentiary - Canaan  
P.O. Box 300  
Waymart, PA 18472

Mr. Westmoreland:

We are returning your correspondence concerning reconsideration of Tort Claim No. TRT-SCR-2019-03796. The request for reconsideration must be submitted to the Regional Counsel for the South Central Regional Office at the address below.

Regional Counsel  
South Central Regional Office  
U.S. Armed Forces Reserve Complex  
344 Marine Forces Drive  
Grand Prairie, Texas 75051

You should include additional evidence of the damage or loss to support your request for reconsideration.

Sincerely,

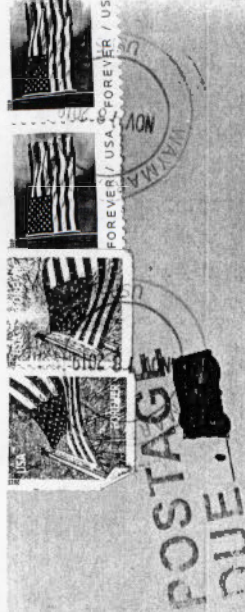
  
J.D. Crook

Supervisory Attorney

JDC/elg

Encl

Joshua Westmorland "28889-075"  
United States Penitentiary - Canaan  
P.O. Box 300  
Waymart, PA, 18472



RECEIVED  
SCRANTON

NOV 21 2019

PER

DEPUTY CLERK

THIS CORRESPONDENCE IS FROM AN INMATE  
CURRENTLY IN THE CUSTODY OF  
THE FEDERAL BUREAU OF PRISONS

District of Courts

William J. Nealon Federal Building  
United States Court House  
235 North Washington Avenue RM 191  
Scranton PA 18503

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THE FEDERAL BUREAU OF PRISONS

